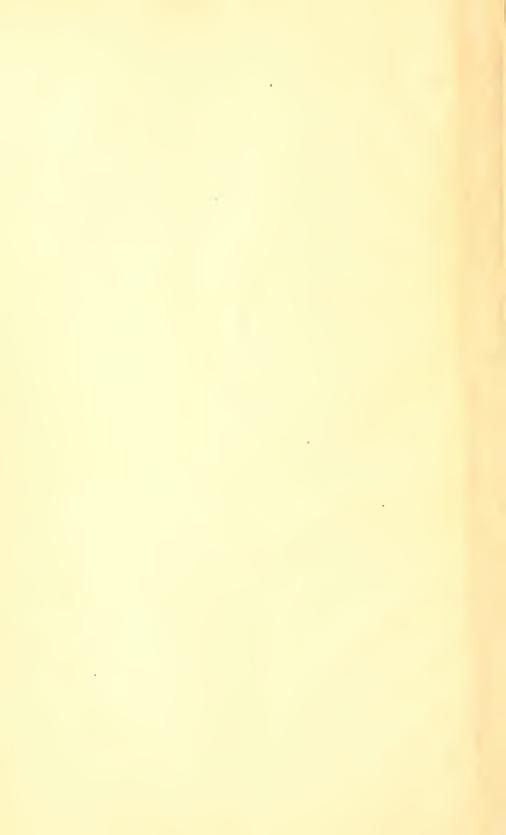




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REMARKS

OF

MR. DURKEE, OF WISCONSIN,

ON THE

LECOMPTON CONSPIRACY,

IN THE SENATE OF THE UNITED STATES,

MARCH 20, 1858.

WASHINGTON, D. C.
BUELL & BLANCHARD, PRINTERS.

1858.

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SPEECH OF MR. DURKEE.

After the many and able speeches which have been made on this Kansas conspiracy in both Houses of Congress, it would be idle in me to suppose that I could say anything calculated to change a single vote on the final issue. But there is a higher tribunal to which the friends of "free Kansas" may be called upon to take their appeal—I mean the tribunal of public opinion; and it is in anticipation of this contingency, as not unlikely to be forced upon us, that I desire to add my testimony against this monstrous iniquity. Too great indifference is still manifested throughout the country in regard to this disturbing element, which more than ever threatens the integrity and perpetuity of the Union; and until the whole people become aroused to the true nature of this question, it is better that the discussion go on.

The honorable Senator from Connecticut thinks Slavery might be left entirely out of view in this discussion. Why, sir, it is the very gist of the question on which we are about to vote, made such by the advocates of the Lecompten conspiracy. Not one of them, on this floor or elsewhere, will deny that it was to prop Slavery, and strengthen its influence, and increase its power in the Government, that this Lecompton scheme was originally concocted. It is too late to plead blindness in this respect. The avowals of Southern statesmen and Southern Legislatures and Conventions, to say nothing of Southern newspapers, have been too frank to leave any doubts on this subject. No, no, Mr. President; it is the Slavery question we are discussing, and that, too, in its widest sense. It is that same question, notwithstanding partisans in National Conventions assembled have, over and over again, "resolved" it out of Congress! And, sir, but for the nationalization of Slavery, which the framers of the Constitution intended to be a temporary and local institution purely, our Federative Union might have remained a political Eden to this day. It is the only element of national discord

which remains to haunt us; and it is because the enemics of Freedom have persisted in transferring this satanic question from a distant Territory to the National Capitol, that this new contest has arisen, and discord been invoked into our otherwise peaceful councils.

Not only have we the Slavery question before us, but we have it in its most startling and odious form. Here, in this Lecompton Constitution, and its famous—shall I not rather say infamous—"schedule," we have not simply the question whether the colored race have any rights which the white race are bound to respect, but we have the strange and startling question propounded, whether white men there have any rights which white men here, in this Senate Chamber, are bound to respect? Sir, this treasonable Constitution, which the majority of this body seem resolved to force upon the people of Kansas, is nothing more nor less than an attempt to enslave the freemen of a whole Territory at a single blow! This is, indeed, Slavery grown to manhood, and now grasping for empire.

Mr. President, disguise the matter as we may, if we pass the Lecompton Constitution, and force upon Kansas an organic law disfranchising a large majority of its inhabitants, it will be worse than mockery to prate of the inalienable guarantees of life, liberty, and the pursuit of happiness. Nor can we fail, as a people, to suffer for the wrong we may thus allow, in utter disregard of all sense of justice, and in direct opposition to every principle of our Constitution. We shall assuredly realize, in the sequel, the truth so often proclaimed by eminent and patriotic statesmen of our own and other countries, that we cannot enslave a part of the community without, in the end, enslaving the whole. And history, if it has made more clear any one fact than another, has taught us that in popular Governments, where power is constantly shifting, the majority may not safely wrong the minority, nor the accidentally powerful those who happen for the time to be powerless.

Not that the white people of Kansas are to be bought and sold as slaves, but they will be deprived of the right of self-government—a tyranny which our forefathers considered too odious to be endured. The majority will be subjected to the will and pleasure of the minority; and what that will and pleasure may be, if sustained by Federal bayonets, can be gathered from the letter and spirit of this whole Lecompton arrangement. Patrick Henry, in his famous revolutionary speech, laid it down as a safe rule, that we may judge of future conduct by the past. If this be true, what are we to expect of the Pro-Slavery party in Kansas? To answer this question, sir, we have only to turn to the code they dared enact when in legislative autherity—that code which honorable Senators, who now propose to invest them with this new engine

of tyranny, confessed a disgrace to the country and to the age. Familiar as Senators are with these infamous provisions, suffer me to read an extract or two. Here, sir, we have the twentieth section:

"If any free person, by speaking or by writing, assert or maintain that persons have not the right to hold slaves in this Territory, or shall introduce into this Territory, print, publish, write, circulate, or cause to be introduced into this Territory, written, printed, published, or circulated, in this Territory, any book, paper, magazine, pamphlet, or circular, containing any denial of the right of persons to hold slaves in this Territory, such person shall be deemed guilty of felony, and punished by imprisonment at hard labor for a term of not less than two years."

Now, sir, let us see what is the punishment provided for those who should disregard this provision. I will read it:

"Persons found guilty of violating the above enactments shall be deemed convicts; and shall immediately, under the charge of the ' keeper of the jail or public prison, or under the charge of such person 'as the keeper of the jail or public prison may select, be put to hard ' labor, as in the first section of this act specified, [to wit, on the streets, ' roads, public buildings, or other public works of the Territory-sec-'tion 1, page 146: and such keeper, or other person having charge of ' such convict, shall cause such convict, while engaged at such labor, to be securely confined by a chain, six feet in length, of not less than four-sixteenths nor more than three-eighths of an inch link, with a ' round ball of iron, of not less than four nor more than six inches in ' diameter, attached; which chain shall be securely fastened to the ankle of such convict with a strong lock and key; and such keeper, or other e person having charge of said convict, may, if necessary, confine such 'convict, while so engaged at hard labor, by other chains, or other means, in his discretion, so as to keep such convict secure, and prevent ' his escape; and when there shall be two or more convicts under the ' charge of such keeper or other person, such convicts shall be fastened ' together by strong chains, with locks and keys, during the time such 'convicts shall be engaged in hard labor without the walls of any jail 'or prison."-See 22d chapter, 2d section, 147th page, Kansas Code.

And yet, sir, Senators are willing to clothe with new authority the very men who dared pass such laws. Shame, eternal shame, be upon us for even the momentary entertainment of such a purpose! Should this law pass, then assuredly will the memorable words sent forth by the Richmond Enquirer, during the recent Presidential campaign, be endorse! by this so-called Democratic Administration. I allude, sir, to the declaration by that print, "that Slavery is right, natural, and

'necessary, and does not depend upon difference of complexion. The laws of the slave States justify the holding of white men in bondage."

We find in these "bogus" laws still further evidence that the people of Kansas would become the slaves of Slavery, in the infamous provision making slave-hounds of freemen! If this does not come inside the Slavery question, I am at a loss to know what would. And might not even worse be expected of this strong partisan Pro-Slavery minority, should it be invested with State authority, and backed by the army?

Mr. President, it is painful to believe that the Chief Magistrate of this great Republic would allow himself to become a party to these treasonable movements. Yet we cannot shut our eyes to the fact that he is lending all the influence of his position to carry out this project. Is it a part of the price that secured his nomination? Of him I will let speak a distinguished Democrat, the first Governor of Kansas, and one who had always enjoyed the friendship and confidence of Mr. Buchanan. It was addressed to the New York Evening Post. I ask for it the eareful attention of Senators. He says:

"I might go on with this catalogue, and enumerate other indications, if necessary, showing that the prevailing tone of the party is hostile to Kansas; but I consider it only necessary to add, that what I have said relates to the North. The South, where the great mass of the party is to be found, makes no pretension, as a whole, to the advocacy of anything but pure border ruffianism.

"What, then, have the Free-State men of Kansas to expect from a Democratic Administration, even if presided over by Mr. Buchanan? ' If he could be left to act upon his own impulses, unaffected by exter-'nal influences, and free from all pledges and obligations, expressed and implied, the case would be very different. But, unfortunately, this is not so. His election would rightfully be considered a decision ' against us, whatever may be his own private feelings. His offices at Washington, in Kansas, and elsewhere, would necessarily, to a large 'extent, be filled with our enemies. His information would come ' through a distorted medium; and, lastly, he could not aid us without having made up his mind to be abandoned and warred upon by his 'own party. The South would charge him with violating his pledges, and turn upon him with the bitterest hostility; and at least a portion of the Northern Democracy would follow their example. He would ' thus be left without a party to support his Administration, unless he ' should east himself into the arms of the Republicans. We cannot, it seems to me, either ask or expect him to do this upon a question ' where party lines are so plainly drawn before this election. Like all 6 other men in the same situation, he must obey the party sentiment on

which he is elected. That there are Democrats in Pennsylvania who are full of indignation against the conduct of the South in regard to Kansas, I am well aware; and that they would use their influence to redress her wrongs, I am well satisfied; but they are too few, in proportion to the whole party of the Union, to sustain his administration in a war with his party. They have as yet been unable to make their opinions appear and be felt in the party, and of course cannot do so hereafter. I honor their good intentions, but I cannot believe in their power.

"I repeat, that I have been forced to these conclusions after no slight struggle with my feelings and inclinations. Should Mr. Buchanan be elected, and his administration be different from what my judgment compels me to believe, I shall give it my cordial approbation, and my feeble though willing support. As I believe now, I must regard the Democratic party as fully committed to Southern sectionalism, toward which, for some time past, it has been rapidly tending; and I quit it, well assured that my duty to my country demands at my hands the sacrifice of personal feelings."

Sir, could anything be more truly prophetic than these words? And here I must express my surprise that Governors Geary and Walker, and Secretary Stanton, did not exercise the foresight of their predecessor in this "grave-yard of Governors." Had they foreseen the events so plainly "casting their shadows before," what disappointment they might have been spared! what mortification and chagrin! The President would have been left to find more pliant executors of his will than they (to their high praise and lasting honor be it spoken) proved themselves to be. It only remained for them to follow the example of Governor Reeder, and quit forever a party thus committed to outrage and wrong, or, at least, to refuse allegiance to its will and behests at the present juneture.

The public sentiment of the country and of the world will sustain them with the plaudit, "well done, good and faithful servants." In the name of God and humanity, in the name of the Freedom-loving State which I in part represent on this floor, I thank them for what they have so far done.

As cruel and barbarous as are the measures of border-ruffian control in Kansas already cited, I have even heard some argue their propriety and correctness, on the ground that Slavery was established by brute force; that its continuance was guarantied by the Constitution of the United States; and that that instrument necessarily perpetuated the right to use that force, to any extent necessary for its protection and maintenance, utterly regardless of all law to the contrary! This

anomalous doctrine was new to me, and yet I cannot discover why it is not logical from the premises; and it occurred to me that both the President and his predecessor must have entertained this same view; for how can their administration of affairs in Kansas be explained on any other principle?

The honorable Senator from Louisiana, the other day, said that the slave trade was guarantied by the Constitution for twenty years. Supreme Court also advanced the same idea in arguing the Dred Scott Alluding, of course, to that clause which says, "the migration or importation of such persons as any of the States now existing shall ' think proper to admit, shall not be prohibited by the Congress prior ' to the year 1808," the court say, "the right of property in a slave is ' distinctly and expressly affirmed in the Constitution. The right to ' traffic in it, like an ordinary article of merchandise and property, was ' guarantied to the citizens of the United States, in every State that ' might desire it, for twenty years.' Now, Mr. President, with all deference to the great names who have put forth this argument, I must be permitted to say that I am not able to discover the least shadow of guarantee to Slavery, or the slave trade, in this clause of the Constitution. This prohibition was, in effect, a refusal on the part of the States to confer on the new Government they were about to construct. jurisdiction over the slave trade until the year 1808. In the examination of this subject, it should be borne in mind that the delegates of the Constitutional Convention represented the sovereignties of States, and were about establishing a new Government, and delegating to it certain powers of jurisdiction. The Constitution, as then drafted, would, without this provision have conferred immediate jurisdiction on Congress, as the tenth clause in the eighth section authorized Congress "to define and punish piracies and felonies on the high seas, and offences against the law of nations." So that all we can make out of this clause, as I understand it, is merely the settlement of a question of jurisdiction. A guarantee presupposes a pledge to aid, if necessary, in the accomplishment of some purpose. The Constitution contains no pledge, either on the part of Congress or the States, to engage in, or in any wise support, the slave trade.

To illustrate more fully my meaning, suppose there had been another provision added to the Constitution, like this: that piracies and felonies on the high seas shall not be prohibited by Congress prior to the year 1808: no one, in such case, would contend that the Constitution guarantied piracy and felony for twenty years; and yet it seems to me there would be as much propriety in doing so, as in saying that it guarantied the slave trade for twenty years. But it is not my purpose to enter

into an extended argument on this subject: it belongs to another class of Senators, more competent to the task. Mr. President, I have to congratulate myself and the friends of Freedom, that the leading statesmen of the South have placed this question on higher ground than the Constitution—the ground that Slavery is right in itself. You say, and say correctly, that Slavery should be maintained in its integrity, or abandoned; that if wrong, it ought to be abolished. Now, since you consent to go into a court of equity, I trust you will not refuse to abide the verdict that may be rendered after a fair adjudication. You place great reliance on the opinion of the United States court in the Dred Scott case. In view of the admission that you are willing to abolish Slavery if it be wrong, independent of the Constitution, allow me to call the attention of Senators to a careful reading of this Dred Scott decision. The court, in arguing this case, say:

"The language of the Declaration of Independence is equally conclusive.

"It begins by declaring that

""When in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth the separate and equal station to which the laws of nature and nature's God entitled them, a decent respect for the opinions of mankind requires that they should declare the causes which impel them to the separation."

"It then proceeds to say:

""We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among them is life, liberty, and the pursuit of happiness; that to secure these rights Governments are instituted, deriving their just powers from the consent of the governed."

"The general words, above quoted, would seem to embrace the whole human family; and, if they were used in a similar instrument at this day, would be so understood."

As much as to say, the morality of our day would give a literal construction to the Declaration of Independence, and secure freedom to all.

Sir, this admission is creditable to the court, and pays a just tribute to the humanity of the age. It is an acknowledgment, by the highest judicial tribunal of the country, that the principles by which slaveholders retain this unfortunate class of men in bondage are incompatible with the moral sense of the American people. Here, then, Senators, in a court of equity, the decision is against you. It rejoices my heart, not only to hear the Supreme Court, but the great mass of the people, reiterating those undying principles embodied in the Declaration of Inde-

pendence. Sir, the experiment of a free Government has not proved a failure. These principles are immortal; they can never die.

Mr. President, we have indeed arrived at a most exciting and critical period in the history of this slave-extension controversy. The whole subject is now rescued from the slimy atmosphere of compromises, and placed in the hands of men who are honest and determined in purpose. They will yield to no compromise that violates principle. We are now sure of a living issue, until a final, and, I trust, a happy termination of this question, which has so long debased the people and distracted the national councils. The issue seems to be fairly made and clearly understood—freedom of the people on one side; despotic rule on the other. The Constitution you seek to adopt disfranchises a large majority of the citizens of Kansas by its test oaths. This feature alone makes it an anti-republican instrument. It was submitted in legal form for adoption or rejection. It was repudiated by four-fifths of the people. The facts are established by the President's own agents. With the permission of the Senate, I will here read an extract from a letter of Governor Walker. The Governor says:

"For the first time in our history, an effort is now made to force a ' Constitution and Government upon an inchoate State, against the well-' known will of a large majority of its people. Nothing can be more clear ' and conclusive than the evidence demonstrating the fact that an over-' whelming majority of the people of Kansas are opposed to the Lecomp-' ton Constitution. This is indicated by the disfranchisement of half the ' counties of Kansas in the election of delegates to the Constitutional 'Convention; by the skeleton vote given to those delegates, averaging ' not more than thirty for each; by the withholding of the Constitution by the Convention, against their well-known pledges, from the people; ' by the result of the election of the Territorial Legislature, in October ' last, when both parties participated; by the miserable frauds and for-' geries perpetrated by the minority, to supply the place of the real elect-' ors, and finally rendered certain by a majority of ten thousand against ' the Constitution, in the election holden on the 4th of January last." "The most vital of all the rights of a State is the establishment of a ' Constitution; and if this right can be disregarded by Congress, the ' whole doctrine of State and popular sovereignty is disearded and over-' thrown. In doing such an act, we are setting a most fatal precedent; we are undermining the very pillars upon which repose the whole ' fabric of popular liberty. We are permitting a small minority to ' supersede a majority in framing a State Government, and Congress is ' becoming the ally and accomplice of that minority in overthrowing the ' rights of the people. These are solemn and momentous questions;

'the real issue is, shall the minority or the majority of the people of a 'State frame their Government? That is a vital question; it involves 'the precise difference between democracy and oligarchy, monarchy, or 'despotism. It is the first, and, I fear, the last step towards the 'overthrow of our free institutions; and if this can be done now, and 'by an authority so high as Congress, what will be the demand next 'made by the minority? Why, that they, the minority, shall control 'not only Kansas, but the Federal Government, under threats of over-'throwing the Constitution and the Union. If submission is now 'yielded to this doctrine, it is very plain to me that the Federal Government itself must pass into the hands of a minority, and that the 'great fundamental principle of the Constitution must be overthrown 'and subverted. I cannot, by a single vote, for a solitary moment, 'sanction a doctrine which must gradually undermine our system, and 'lead directly to anarchy or despotism.

"It is not the cause of Kansas alone on which we are now deliber-'ating, but upon a great fundamental principle which is now to be sus-' tained or subverted. That principle comes home to the heart and ' judgment of every elector in the Republic. Shall the elective fran-'chise become an empty form? Shall the votes of the majority prevail, ' or shall they be superseded by technical quibbles, unworthy the con-' sideration of statesmen, or by an organized system of frauds and forgeries? Shall the most clear and palpable evidence, which would carry ' conviction to the breast of any honest judge or jury, be suppressed or ' superseded by crimes which should condemn their authors and accom-'plices to disgrace and punishment? There is a great moral as well 'as a political question involved in this controversy. We are asked, ' not only to sanction the overthrow of a great fundamental principle of 'public liberty and the Constitution, but to approve, also, a series of ' frauds and forgeries, the most palpable and the most wicked which ' have ever disgraced any age or country, and thus forfeit our own self-'respect, and that of the whole civilized world, which must be the 'spectators of this infamy. If there be any crime which is more 'atrocious than any other, it is the forgery of election returns, and ' especially in an election involving all the dearest rights of a free pco-' ple, in the establishment of a State Government. It is now proved ' incontestably, by legal evidence, taken on oath before legislative com-' mittees, that in four precincts only in Kansas, where more than three ' thousand votes were pretended to have been given, that four-fifths of ' the whole were entirely fictitious, and that the returns were forged ' and fraudulent. No man can or dare deny this testimony. From an ' intimate and personal knowledge of each and every one of these pre'einets, I know that this testimony is true; and yet we are asked to sanction a Constitution has d upon crimes like these." * * *

"But, force this Constitution upon the people of Kansas now, against ' their will, and no mortal vision can penetrate the dark abyss in which 'lie hidden the deep disasters now menacing Kansas and our country. 'I cannot take this dark leap into such a vortex of crime and uncer-'tainty. If the people of Kansas submit, nevertheless the damning ' truth will still remain, that the State will have been forced into the ' Union against the will of her people. She would enter the Union, not 'as the peer and equal of her sovereignties, but she would be driven ' into the Union, disgraced by the chains of a usurping minority, and 'covered all over with shame and degradation. The very parchment on which her Constitution was written would be stained by crimes 'and forgeries. The signet of the people would never have been affixed ' to the instrument, but in its place a vile counterfeit would have been ' substituted, there to remain forever upon our and her archives, as a 'perpetual record of her disgrace and of our injustice. 'The thirty-' second star of our heretofore glorious constellation would not have ' arisen above the horizon in all the brightness of new-born liberty, but ' it would have come in shorn of its lustre, and easting its darkening ' shadows over the receding glories of the Republic. The fatal exam-' ple never could be erased. We could never recall the past; we could ' never retrace our steps; but onward, still onward and downward, our ' movements would be toward that destiny which must ever attend out-'rage, crimes, and injustice. And why should we encounter these 'dreadful hazards? What is unjust can never be expedient. ' diency has been the plea of tyrants in every age and country. It has ' placed and retained the crown upon the monarch's brow. It has gov-'erned the world by swords and bayonets. It has covered the world " with violence, fraud, and injustice."

Permit me to read a short extract from a letter of Governor Wise—a Southerner and slaveholder. He says:

"I have much to add to my Tammany and Philadelphia letters; but
I have not the time and opportunity now to show that the fraud of the
clections in Kansas was nothing in comparison to the Lecompton Constitution itself. The question is, shall a pretended Constitution which
was not adopted by that Convention—for, on the contrary, it was submitted for adoption by the people—and which was not adopted by the
people, for they were not allowed to vote against it, be forced, by the
intervention of Congress, on a majority of the people, against their
sovereign will? Shall this be done, too, on the Bourbon doctrine of
legitimacy? And, if done, are the people to be driven to the extremity

' of the Dorr doctrine of the Rhode Island case? It is autocratic, 'aristocratic, oligarchy, and despotic, thus to constrain popular sov'ereignty by the onus of legitimacy.''

In adopting this Constitution, then, you abandon the ballot-box, the voice of the people, and proceed to act on a rule known only to tyrants—that might makes right. Can you succeed, Senators, in this measure—a measure that seeks the overthrow of the doctrine of State rights and the great principles of the Constitution? I leave that question for the future to answer.

But I will say this: that, if you pass the Lecompton Constitution, and force it on the people by the army of the United States, and the citizens of Kansas and the free States tamely submit, I shall be obliged to confess, with shame and humiliation, that the honorable Senator from South Carolina, in his recent speech, was correct in the assertion that a majority of the people of the free States are already slaves.

The President says, pass this bill, and the people of Kansas have the means in their own hands to redress their grievances. How? By swearing to a lie in swearing to support the Lecompton Constitution, which guaranties the right of property in man? No citizen in Kansas who disbelieves this could take the oath without committing moral perjury. Let us look at the process. A Free State man, who believes that the New Testament inculcates the sentiment that all men are entitled to liberty, and that it is his duty, so far as he is able, to remove the heavy burdens from the oppressed, is required to take an oath that compels him to violate the very principles by which he swears. They must degrade themselves before they can be free! Sir, this is the argument of the libertine—submit, and then be free! This leads me, Mr. President, to say a word in regard to great public crimes which this Government has already committed, and which it now upholds. Look at the statutebook, and the decision of your courts, and you will see that we have drawn, by legislative enactment, a geographical line, and said to all who desire to engage in the slave trade on one side of this line; you may do so with impunity. On the other side of this line, all who dare to engage in this traffic shall suffer death as pirates! Has not the Supreme Court just decreed that all the Territories between this and the Pacific shall be open to kidnapping and robbery, provided the victims be of a certain race? Now, it should be observed that, while we are so regardless of the rights of humanity in the Territories, we are remarkably nice in protecting the rights of property. To illustrate: a colored man emigrates from Massachusetts to Kansas, buys a piece of land, settles on and improves it. Now, we have a law there saying: "All persons convicted of horse-stealing shall suffer confinement at hard

labor not exceeding seven years." Here, then, if the white man steal the colored man's horse, he is to be punished as a felon; but, if he kidnap the owner, or his family, it is right and lawful, being guarantied by the Constitution! Could anything be more absurdly wicked? Sir, such laws, and such a system of reasoning, insult the understanding and shock the moral sense of the world!

Mr. President, I cannot believe Congress will pass this bill. And even should they pass it, it cannot be enforced. In my opinion, any attempt to do so would light up the flames of a civil war that would carry with it general devastation and ruin.

And, sir, war, with all its attendant evils, would be far more endurable than loss of honor and self-respect. But there will be no war, or if there should, it would be of short duration. No, sir, there are too many magazines under our feet to permit that; I am yet hopeful of the future. And when I hear able and eloquent Senators advocating the extension of human bondage with such earnestness and sincerity of manner, I am inclined to look upon them as I look upon Saul of Tarsus. I hope yet to see them like Paul, the Apostle of the Gentiles, lifting from degradation the down-trodden of our land.

The path of duty is plain. Let the President withdraw the troops from Kansas. Let the people make their own Constitution, as other States have done. Let the Government cease to wage war against an innocent and unoffending people, and return to its duty—the protection of the weak against the invasion of the strong. Then, and not till then, shall we maintain justice at home, respect abroad, and fulfil the hopes of our fathers in illustrating that great and sublime truth, that man is capable of self-government.

Sir, truth is mighty, and will prevail. It will penetrate where bayonets cannot enter. Neither the fugitive slave law, Government patronage, nor the Dred Scott decision, can arrest its progress. In the language of an eminent statesman, "It will march on the horizon of the world, and it will conquer."







